



# CITY OF MEMPHIS

## COUNCIL AGENDA

September 9, 2008

Public Session Tuesday, 3:30 p.m.

Council Chambers, First Floor, City Hall

125 North Main Street

Memphis, Tennessee 38103-2017

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**CALL TO ORDER by the Sergeant-at-Arms**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**CALL OF ROLL by the Comptroller**

**APPROVAL OF PREVIOUS MEETING MINUTES (August 19, 2008)**

**ANNOUNCEMENT FOR APPEARANCE CARDS FOR PUBLIC SPEAKING**

**ITEMS HELD OR DROPPED FROM THE AGENDA**

## **CONSENT AGENDA**

### **GENERAL ORDINANCE - FIRST READING**

1. **ORDINANCE** amending Chapter 7-8, Article II, of the Code of Ordinances to update and amend regulations regarding the Sale of Beer for Off-Premise Consumption, up for F I R S T reading.

Hedgepeth

Ordinance No. 5276

ACTION REQUESTED: Adopt the ordinance on First reading

### **GENERAL ORDINANCE - SECOND READING**

2. **ORDINANCE** to amend Title 6, Chapter 6-80, Article 7, Section 6-80-50 of the Code of Ordinances to establish a temporary fuel surcharge for the taxicab industry, up for S E C O N D reading.

Hedgepeth

Ordinance No. 5275

ACTION REQUESTED: Adopt the ordinance on Second reading

**ZONING ORDINANCES - FIRST READING**

3. **ORDINANCE** rezoning the west side of South Willett Street, 75-135 feet north of Monroe Avenue, containing 6,725 square feet in the General Office (O-G) District, up for F I R S T reading.

Lowery

Ordinance No. 5277  
Case No. Z 08-103

Applicants: Leopold L. Brown, Lorraine Brown &  
W. A. & Sarah Newsom  
Tim McCaskill – McCaskill & Associates - Representative

Request: Local Commercial (C-L) District

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Adopt the ordinance on First reading

4. **ORDINANCE** rezoning the south side of Raines Road; 600 feet west of Elvis Presley Boulevard, containing 0.48 acre in the Single Family Residential (R-S10) District, up for F I R S T reading.

Lowery

Ordinance No. 5278  
Case No. Z 08-107  
(Converted from U.V. 08-05)

Applicant: Tonjala Smith  
Jim Kincaide – Representative

Request: General Office (O-G) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on First reading

5. **ORDINANCE** rezoning the northeast corner of Frayser Boulevard and Ardmore Street, containing 0.713 acre in the Single Family Residential (R-S10) District, up for F I R S T reading.

Lowery

Ordinance No. 5279  
Case No. Z 08-106

Applicant: Demetrice Jones  
David Bray – The Bray-Davis Firm – Representative

Request: Local Commercial (C-L) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on First reading

**ZONING ORDINANCES - SECOND READING**

6. **ORDINANCE** rezoning the east side of Quince Road; +/-60 feet north of Kirby Gate Boulevard, containing 5.878 acres in the Single Family Residential Flood Plain (R-S10{FP}) and Floodway (FW) Districts, up for S E C O N D reading.

Lowery

Ordinance No. 5273

Case No. Z 07-118

(Companion Case: PD 07-331)

Applicant: Wills and Wills L.P. (Walter Wills)  
Fisher and Arnold (Jud Te Paske) – Representative

Request: Single Family Residential (R-S10) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on Second reading

7. **ORDINANCE** rezoning the southeast corner of James Road and New Raleigh Road, containing 2.1997 acres in the Single Family Residential (R-S6) and Agricultural (AG) District, up for S E C O N D reading.

Lowery

Ordinance No. 5274

Case No. Z 08-105

Applicant: Romelius Kizer/PGBT, LLC  
Frank P. Palumbo, Jr. – Doveland Engineering – Representative

Request: Rezone from Agricultural (AG) District to Single Family Residential (R-S6) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on Second reading

**ENGINEERING**

8. **RESOLUTION** approving final plat of STONEBRIAR PLANNED DEVELOPMENT, AREA 10, PHASE 6 – STREET IMPROVEMENTS.

Case No. PD 03-335cc

Contract No. CR-5115

Resolution approves the final plat located on the north side of Stateline Road, east of Riverdale Road. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

9. RESOLUTION approving final plat of STONEBRIAR PLANNED DEVELOPMENT, AREA 10, PHASE 7, STREET IMPROVEMENTS.

Case No. PD 03-335cc  
Contract No. CR-5116

Resolution approves the final plat located on the north side of Stateline Road, east of Riverdale Road. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

10. RESOLUTION accepting APPLING FARMS BUSINESS PARK P.D., PHASE 2A STREET IMPROVEMENTS and authorizing release of bond.

Case No. PD 04-385  
(Contract No. CR-5099)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located north of I-40 between Appling Road and Charles Bryan Road. The standard improvement contract was approved on November 6, 2007. Resolution also authorizes the release of the performance bond in the amount of \$378,600.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

11. RESOLUTION accepting EUDORA PLANNED DEVELOPMENT, PHASE 1 and authorizing release of bond.

Case No. PD 06-364  
(Contract No. CR-5088)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the northeast corner of Poplar Avenue and Perkins Road. The standard improvement contract was approved on August 7, 2007. Resolution also authorizes the release of the performance bond in the amount of \$44,600.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

12. RESOLUTION approving final plat of QUINCE STATION SHOPPING CENTER SUBDIVISION.

Case No. S 07-039

Resolution approves the final plat located at the southeast corner of Quince Avenue and White Station.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

13. RESOLUTION approving final plat of SFR RETAIL SUBDIVISION.

Case No. S 08-003

Resolution approves the final plat located on the west side of Cleveland Street, 150 feet north of Larkin Avenue. Cost of the required improvements to be borne by the developer.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

**NOTATIONS FROM OPD**

14. **NOTATIONS** from Land Use Control Board that the following cases were heard and recommendation made requesting a date of public hearing:

A. Case No. PD 06-314cc – Lee Line Farms P.D., Area F

Located on the northwest corner of Houston Levee and Macon Road, containing 26.87 acres in an area currently governed by the Lee Line Farms Planned Development (PD 06-314cc)

Appellant: Gray's Creek Association

Applicant: Wal-Mart Stores

Request: Uphold the appeal of the Gray's Creek Association and thereby reverse Land Use Control Board approval of a site plan for a proposed Wal-Mart Supercenter

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION, of the site plan

B. Case No. PD 07-331  
(Companion Case No. Z 07-118)

Located on the east side of Quince Road, +60 feet north of Kirby Gate Boulevard containing 14.01 acres in the Single Family Residential Flood Plain (R-S10{FP}) and Floodway (FW) Districts

Applicant: Wills and Wills, L.P. (Walter Wills)  
Fisher & Arnold (Jud TePaske) – Representative

Request: Reinstatement P.D., formerly PD 97-353, to permit uses in the Townhouse Residential District and institutional uses such as an Assisted Living or a Nursing Home. This request includes a specific plan for a Hospice Facility in Area A

LUCB and OPD recommendation: APPROVAL, with conditions

C. Case No. PD 08-321 – Fleming’s Steakhouse P.D., Amended

Located on the south side of Poplar Avenue; +/-670 feet west of Massey Road, containing 3.67 acres currently governed by Fleming’s Steakhouse Planned Development (P.D. 04-374)

Applicant: Poplar Station, LLC  
Harkavy-Shainberg, PLC (Ronald Harkavy) – Representative

Request: Planned development to allow a one-story retail building 6,000 square feet in area within the Outline Plan

LUCB and OPD recommendation: APPROVAL, with conditions

**ACTION REQUESTED: Set a date of public hearing**

**SUGGESTED DATE: September 23, 2008**



# CITY OF MEMPHIS

## COUNCIL AGENDA

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### MLGW FISCAL CONSENT

15. RESOLUTION awarding Contract No. 11232, Medical Insurance Plan, to Cigna Insurance Company in an estimated funded amount not to exceed \$7,206,263.52 in the 2009 budget and subsequent budgets as approved.
16. RESOLUTION awarding Contract No. 11233, Employee Benefit Dental Plan, to Delta Dental of Tennessee in an estimated funded amount not to exceed \$1,857,104.00 in the 2009 budget and subsequent budgets as approved.
17. RESOLUTION awarding Contract No. 11303, Medical Insurance Plan, to Aetna Insurance Company in an estimated funded amount not to exceed \$1,023,269.76 in the 2009 budget and subsequent budgets as approved.
18. RESOLUTION approving Change No. 4 to Contract No. 9547, IBM Maintenance, with IBM (International Business Machines) in the funded amount of \$167,304.00. (This covers new software releases: z/OS, WebSphere MQ V6, Enterprise Cobol for z/OS V3.4, and the Client Attachment feature for WebSphere MQ.)
19. RESOLUTION approving Change No. 3 to Contract No. 11009, MLGW Utility Payment Centers, with Fizerv (formerly CheckFree Pay Corporation) in the funded amount of \$200,000.00. (This changes the corporation name to Fizerv and renews the contract for the third renewal term, October 3, 2008 to October 2, 2009.)
20. RESOLUTION amending Purchase Orders 124902, 124903 and 124904 with Howard Industries, Inc.; Purchase Orders 124905 and 124906 with Central Moloney, Inc.; and Purchase Order 124907 with Pauwels Transformers for distribution transformers in the amount of \$5,238,005.10, for a total amount of \$22,698,022.10.
21. RESOLUTION awarding contract for utility bodies to Scruggs Equipment Company in the amount of \$112,744.00.

22. RESOLUTION awarding contract for radio equipment as follows:

Integrated Communications, Inc.....	\$12,080.00
Holzberg Communications, Inc.....	4,134.39
Motorola, Inc.....	<u>34,680.00</u>
Total:	\$50,894.39

23. RESOLUTION authorizing MLGW to purchase unleaded fuel and #2 low sulfur diesel fuel from Truman Arnold under City of Memphis Contract No. 24577, and to purchase B20 blended biodiesel from Mansfield Oil Company under City of Memphis Contract No. 24616, totaling \$6,663,640.67 for a one-year period with options to extend for two additional years.
24. RESOLUTION awarding contract for one truck-mounted hydraulic digger derrick to Altec Industries in the amount of \$112,216.00.
25. RESOLUTION awarding contract for two front-mounted truck winches to Terex Utilities, Inc. in the amount of \$25,500.00.
26. RESOLUTION awarding contract for three air compressors to Scruggs Equipment Company in the amount of \$55,125.00.
27. RESOLUTION awarding 12-month contract for wedge-tap connectors to HD Supply Utilities in the amount of \$294,496.20.
28. RESOLUTION awarding contract for one transformer test system to Optimized Devices, Inc. in the amount of \$110,900.00.
29. RESOLUTION awarding contract for 12-month maintenance agreement for inserter system to Bell & Howell in the amount of \$52,364.00, including exercise of option to purchase the system in the amount of \$1.00, for a total of \$52,365.00.
30. RESOLUTION awarding 36-month contract for water meters as follows:
- |                               |                   |
|-------------------------------|-------------------|
| Neptune Technology Group..... | \$913,500.00      |
| Badger Meter, Inc.....        | 1,505,369.36      |
| Sensus Metering Systems.....  | <u>334,252.80</u> |
| Total:                        | \$2,753,122.16    |
31. RESOLUTION awarding 36-month contract for rental of one color printer system to R. J. Young Company in the amount of \$382,788.00.
32. RESOLUTION approving payment of invoice from the Tennessee Department of Environment and Conservation for annual facility maintenance fee for public water systems in the amount of \$124,901.70, payable to the Treasurer, State of Tennessee.
33. RESOLUTION giving contract authority to MLGW's General Counsel for claims settlement.





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## REGULAR AGENDA

### GENERAL ORDINANCES – THIRD AND FINAL READING

34. **ORDINANCE** to amend previous Ordinance No. 4388, codified as City Code, Title 6, Chapter 6-92, Section 6-92-1, ET. SEQ., so as to revise Section 6-92-11, Subsection (A) to allow said Title 6, Chapter 6-92 to remain in full and effect until December 31, 2008, up for T H I R D and F I N A L reading.

Flinn

Ordinance No. 5270

ACTION REQUESTED: Take whatever action Council deems advisable

35. **ORDINANCE** to amend Chapter 2, Code of Ordinances, City of Memphis, by amending Section 2-228 (asphaltic binder paving of streets constructed as part of standard improvement contracts; costs), to include the requirement for provision of the surface course of pavement and street striping by the developer and to implement a warranty requirement for the infrastructure constructed as part of the City standard improvement contract, so as to enhance the long-term stability and durability of roadways being constructed, up for T H I R D and F I N A L reading.

Morrison

Ordinance No. 5271

ACTION REQUESTED: Take whatever action Council deems advisable

**ENGINEERING DIVISION** (None)

### **EXECUTIVE DIVISION**

36. **RESOLUTION** accepting grant funds in the amount of Fifty Thousand Dollars (\$50,000.00) from the State of Tennessee Department of Labor and Workforce Development Division for WIA Title One State Pilot Apprenticeship Workers Services Grant. Resolution also amends FY 2009 Operating Budget to establish and appropriate grant funds.

Collins

ACTION REQUESTED: Adopt the resolution

37. RESOLUTION accepting grant funds in the amount of Two Thousand, Five Hundred Dollars (\$2,500.00) from the State of Tennessee Department of Labor and Workforce Development Division for WIA Title One State Pilot Apprenticeship Works Administrative Services Grant. Resolution also amends FY 2009 Operating Budget to establish and appropriate grant funds.

Collins

ACTION REQUESTED: Adopt the resolution

**FINANCE & ADMINISTRATION** (None)

**DIVISION OF FIRE SERVICES** (None)

**DIVISION OF GENERAL SERVICES** (None)

**DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT** (None)

**DIVISION OF HUMAN RESOURCES** (None)

**LAW DIVISION** (None)

**MLGW DIVISION** (None)

**PARK SERVICES**

38. RESOLUTION amending the FY 2009 Capital Improvement Fund Budget by including a revenue allocation award of \$250,000.00 from Martin Luther King Park Improvement Fund 0219, Account Number 049999 to CIP Project Number PK07102, Martin Luther King Park Restrooms in Construction, for the construction of a restroom facility in Martin Luther King Park.

Strickland

ACTION REQUESTED: Adopt the resolution

**DIVISION OF POLICE SERVICES**

39. RESOLUTION requesting that an audit investigation by the Internal Audit Department and/or the Civilian Law Enforcement Review Board be conducted of Memphis Police Department policies, protocols, procedures, citizen complaint processes and Internal Affairs to determine corrective actions which will ensure that the human and civil rights of citizens are protected. (Held from 8/19)

Hedgepeth

ACTION REQUESTED: Adopt the resolution

**DIVISION OF PUBLIC SERVICES**

40. RESOLUTION accepting grant funds in the amount of \$71,000.00 from the State of Tennessee Department of Health for the Rape Prevention and Education Services Grant to be used by the Memphis Sexual Assault Resource Center to provide rape prevention and crisis services. Resolution also amends FY 2009 Operating Budget to establish and appropriate grant funds.

Brown

ACTION REQUESTED: Adopt the resolution

41. RESOLUTION accepting \$50,000.00 from Shelby County Government for Memphis and Shelby County Music Commission for operating expenditures.

Collins

ACTION REQUESTED: Adopt the resolution

**DIVISION OF PUBLIC WORKS**

42. RESOLUTION appropriating \$162,045.00 funded by Sewer Funds for CIP Pipe in Nine Locations, Project Number SW02076 for a construction contract with Insituform Technologies, Inc.

Morrison

ACTION REQUESTED: Adopt the resolution

43. RESOLUTION appropriating \$233,495.98 funded by G.O. Bonds for the Elvis Presley Improvement Study, Project Number EN01027, for the analysis and implementation study to facilitate improvements along Elvis Presley Blvd., from Brooks Road South to Shelby Drive in Other Cost.

Morrison

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

44. RESOLUTION appropriating \$24,000.00 funded by G.O. Bonds General to be deposited in the Local Government Investment Pool Account for Kirby Parkway/Walnut Grove to Macon, Project Number PW01174.

Morrison

ACTION REQUESTED: Adopt the resolution

45. RESOLUTION appropriating \$2,148,425.00 in GS01010, Americans with Disabilities, to comply with federally mandated court order.

Morrison

ACTION REQUESTED: Adopt the resolution

46. RESOLUTION appropriating \$2,070,000.00 in GS01007, Major Modifications, to preserve and maintain City of Memphis facilities.

Morrison

ACTION REQUESTED: Adopt the resolution

47. RESOLUTION approving the acquisition by purchase or condemnation of 53,196 square feet permanent right of way, 1,510 square feet permanent drainage easement, 54 square feet permanent signal easement and 61,639 square feet temporary construction easement for the completion of road improvements adjacent to the property of the Heirs of Frank Holmes at Malone and Holmes Road, Plat 8 of 11, Holmes Road from Tchulahoma to Malone Road. Resolution provides that a total of \$57,121.00 be deposited with the Circuit Court Clerk pending completion of the suit or settlement of the parties.

Morrison

Director of General Services, Director of Public Works & City Engineer  
recommends approval

ACTION REQUESTED: Adopt the resolution

**ZONING ORDINANCES – THIRD AND FINAL READING** (None)

**DIVISION OF PLANNING & DEVELOPMENT**

48. RESOLUTION extending a Moratorium on the issuance of billboard construction permits by the Memphis and Shelby County Office of Code Enforcement, until March 31, 2009, or until an amended ordinance regarding billboard construction can be adopted.

Lowery

ACTION REQUESTED: Adopt the resolution

49. RESOLUTION approving special use permit located on the southwest corner of East Parkway South and Walker Avenue, containing 0.55 acre in the Local Commercial (C-L) District.

Lowery

Case No. SUP 08-203

**NOTE:** This Special Use Permit is granted for a four month period from the date of Council action on May 6, 2008 (Item Passed). The Special Use Permit shall expire unless extended by the Council at its September 9, 2008 meeting. The applicant shall, during this time, complete the changes to the site that are illustrated on the site plan (fencing, landscaping, closing of curb cuts and paving. At the end of the four month period, the applicant and OPD shall report to the Memphis City Council on or before September 9, 2008 to review the status of the property and the applicant's progress in making the required improvements. On September 9, 2008, the Council will vote whether or not to extend the Special Use Permit.

Applicant: Edgar Flores  
Andre Williams – Representative

Request: Auto Sales and Mechanic Shop

LUCB and OPD recommendation: REJECTION

**73 NOTICES MAILED ON MARCH 20, 2008**

50. RESOLUTION approving a special use permit located on the west side of Tchulahoma Road; +830 feet north of Jackson Pit Road, containing 1.07 acres in the Single Family Residential (R-S8) District.

Lowery

Case No. SUP 08-223

Applicant: Tower Ventures V, LLC  
Billy Orgel – Representative

Request: Cellular Tower (149 feet tall – designed as a flag pole)

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

**No Opposition at LUCB; No Public Hearing Required**

**PUBLIC HEARINGS**

51. RESOLUTION approving a planned development located on the east side of Crumpler Road; +/-220 feet north of Pine Meadow Lane, containing 11.53 acres in an area currently governed by Crumpler Park Planned Development (P.D. 98-370).

Lowery

Case No. PD 08-317

Applicant: Community Bank, N.A.  
Kevin Hyneman Co., Inc./Solomito Land Planning -  
Representatives

Request: Planned development to allow General Office (O-G), Planned Commercial (C-P) and limited Light Industrial (I-L) District land uses within the Outline Plan

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

ACTION REQUESTED: Take whatever action Council deems advisable

**132 NOTICES MAILED ON AUGUST 22, 2008**

52. RESOLUTION approving a planned development located on the southeast corner of Reese Road and Appling Road, containing 16.88 acres in an area currently governed by P.D. 99-361cc, Area B.

Lowery

Case No. PD 08-318

Applicant: Enterprise Rent A Car (Don Austin)  
Ronald Harkavy – Representative

Request: Amend Area B to permit an Executive Office for Car Rental Agency with additional parking to support its operation and above ground fuel storage

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

**117 NOTICES MAILED ON AUGUST 22, 2008**

53. RESOLUTION approving a planned development located on the north side of Vollintine Avenue between Evergreen Street and Hawthorne Street, containing 2.81 acres in the Single Family Residential (R-S6) District.

Lowery

Case No. PD 07-334

Applicant: Church of God in Christ  
Vanecia Belser Kimbrow, Esq. & Charles Goforth, Barge,  
Waggoner, Sumner & Cannon – Representatives

Request: Senior Housing – 117 apartment units

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

**190 NOTICES MAILED ON AUGUST 22, 2008**

**GENERAL ITEMS**

54. RESOLUTION requesting City Administration to submit a Request for Qualifications from developers desiring to develop the Pyramid and Mud Island sites.  
(Held from 03/04; 6/3)

Flinn

ACTION REQUESTED: Adopt the resolution

55. ELECTION of the Interim Council member for District 9, Position 1.

Lowery

56. RESOLUTION amending the Permanent Rules of Procedure of the Memphis City Council by providing for annual election of Chairman and Vice Chairman.

Morrison

ACTION REQUESTED: Adopt the resolution

**PRESENTATIONS AND RECOGNITION OF VISITORS**

**APPEARANCE CARDS FOR PUBLIC SPEAKING**

**ADJOURNMENT**

**ADD-ONS**

57. RESOLUTION honoring Minister Suhkara Yahweh.  
Brown

ACTION REQUESTED: Adopt the resolution

58. ELECTION of Council Vice Chairman for the remainder of 2008.  
Lowery

**ACTION TAKEN BY COUNCIL ON THIS DATE**

1. Through 13 – Approved
14. Public Hearing Set for September 23, 2008
15. Through 47 – Approved
48. Approved, as amended
49. Failed
50. Approved
51. Delayed until October 7, 2008
52. Approved
53. Failed
54. Tabled
55. Through 58 - Approved

**ACTION TAKEN ON THE MINUTES OF AUGUST 19, 2008**

Approved, as amended. Item #50 was reconsidered without objection and pulled from the Minutes. This item was set up as Special Item #4 and amendments were made.

**ACTION TAKEN ON THE MINUTES OF ITEMS #23 & #33 FROM TONIGHT'S MEETING**

Approved